

Amendment Number 2
to
Contract Number DIR-SDD-2169
between
State of Texas, acting by and through the Department of Information Resources
and
QA Systems, Inc.

This Amendment Number 2 to Contract Number DIR-SDD-2169 ("Contract") is between the Department of Information Resources ("DIR") and QA Systems, Inc. ("Vendor"). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. **Contract, Section 2. Term of Contract** is hereby amended as follows:

DIR and Vendor hereby agree to extend the term of the Contract for one (1) year through March 21, 2016, or until terminated pursuant to the termination clauses contained in the Contract. Prior to expiration of the term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to one (1) additional one-year renewal term.

2. **Contract, Section 4. Pricing**, is hereby restated in its entirety as follows:

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Standard Terms and Conditions For Services Contracts, Section 7. Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee.

3. **Contract, Section 4. Pricing A - G** is deleted and is hereby restated in its entirety in Appendix A, Standard Terms and Conditions For Services Contracts, Section 7. Pricing, Purchase Orders, Invoices and Payment dated 02/04/2015 as attached hereto.
4. **Contract, Section 5. DIR Administrative Fee, A)** is hereby restated in its entirety as follows:

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three quarters of one percent (.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.00. The effective date of this change will be June 1, 2015.

5. **Contract, Section 6. Notification** is hereby restated in its entirety as follows:

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Dana L. Collins, CTPM, CTCM
Manager, Contract and Vendor Management
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 936-2233
Facsimile: (512) 475-4759
Email: dana.collins@dir.texas.gov

If sent to the Vendor:

Marcos Gutierrez
QA Systems, Inc.
3267 Bee Caves Road, Suite 107-514
Austin, Texas 78746
Phone: (512) 634-6111
Facsimile: (512) 637-8811
Email: marcosjr@qasystems.com

6. **Contract, Section 7. Service Agreement** is hereby amended by renumbering Section 7. Services Agreement and adding **B. Conflicting or Additional Terms** in its entirety as follows:
 - A. **Service Agreement**
Services provided under this Contract shall be in accordance with the Service Agreements as set forth in Appendix E of this Contract. No changes to the Service Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.
 - B. **Conflicting or Additional Terms**
In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.
7. **Contract, Section 8. Intellectual Property Matters, A - L** is deleted and is hereby restated in its entirety in Appendix A, Standard Terms and Conditions For Services Contracts, Section 4. Intellectual Property Matters dated 02/04/2015 as attached hereto.
8. **Appendix A. Standard Terms and Conditions For Services Contracts**, is hereby restated in its entirety and replaced with the attached Appendix A. Standard Terms and Conditions For Services Contracts dated **02/04/2015**.
9. **Authorized Exceptions to Appendix A, Standard Terms and Conditions for Services Contracts** dated **02/04/2015**.

- A. **Appendix A, Section 8, Contract Administration, B. Reporting and Administrative Fees, 2) Detailed Monthly Report** is hereby revised by adding the second paragraph below in its entirety which reads as follows:

2) Detailed Monthly Report

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the Contract for the previous month period. Reports shall be submitted to the DIR ICT Cooperative Contracts E-Mail Box at ict.sales@dir.texas.gov. Reports are due on the fifteenth (15th) calendar day after the close of the previous month period. The monthly report shall include, per transaction: the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, manufacturer's suggested retail price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Vendor for correction in accordance with this section.

If Vendor submits three (3) monthly sales reports or administrative fee payments late within a 12-month period, DIR reserves the right to suspend or terminate this Contract for cause per Section 11.B.4.a. of Appendix A, Termination for Cause. If Vendor is late with its monthly sales report, Vendor will pay DIR one hundred dollars (\$100) per day ("Late Payment"), for each day the monthly report is late, up to ten (10) days per month for a maximum monthly Late Payment amount of \$1000 for late monthly sales reports. If Vendor is late with its monthly administrative fee payment, Vendor will pay DIR one hundred dollars (\$100) per day ("Late Payment"), for each day the monthly administrative fee payment is late, up to ten (10) days per month for a maximum monthly Late Payment amount of \$1000 for late monthly administrative fee payments. DIR does not waive any other contractual remedy pursuant to this Contract.

All other terms and conditions of the Contract not specifically modified herein shall remain in full force and effect. In the event of a conflict among provisions, the order of precedence shall be this Amendment Number 2, then Amendment Number 1, and finally the Contract.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective as of the date of the last signature, but in all events, no later than March 21, 2015.

QA Systems, Inc.

Authorized By: Signature on File

Name: Marcos Gutierrez

Title: CEO

Date: 4-27-15

The State of Texas, acting by and through the Department of Information Resources

Authorized By: Signature on File

Name: Todd Kimbriel

Title: Interim Executive Director

Date: 5/14/15

General Counsel: DRBrown 5-14-15